

Mitsubishi Motors Australia Limited (“MMAL”) Exclusive Dealing Notification RN1000433.

Interested Party Response – Objection to the Notification

On behalf of J&F Motors Pty. Ltd. I wish to formally submit our objection and request the ACCC revoke this MMAL Exclusive Dealing notification based on the belief that this conduct will have the effect of substantially lessening competition and in all the circumstances, will not result in likely public benefit heavily outweighed by public detriment.

J&F Motors Pty. Ltd. is a privately owned family business in operation for over 50 years based in the inner-city Melbourne suburb of Richmond. The business employs 8 people and specialises in the general maintenance and repair of Volkswagen & Audi vehicles as well as general servicing requirements of all makes and models. The business prides itself on providing quality service and repairs at a reduced price point in direct relation to Manufacturer dealer servicing as well as allowing a convenient location for our customers to service their cars within their local area as opposed to having to travel lengthy distances to their closest dealership.

In carrying out repairs and servicing to vehicles we offer our customers the opportunity to use quality aftermarket components as opposed to only using manufacturer supplied components, this offers consumer choice and reduced costs associated with often improved design and subsequent longevity of components. We also offer the customer independent non-judgemental advice on the design and function of their particular vehicle; this often gives the customer the opportunity to make a more informed decision on purchasing new vehicles or retaining and maintaining their current vehicle.

J&F Motors specific concerns in relation to the Mitsubishi Motors Australia Limited Exclusive Dealing Notification are as follows:

1. Majority of customers when purchasing a new vehicle report to me that they will no longer be able to carry out servicing with J&F Motors as they have been told it will void their warranty. As we are all well aware the ACL and Consumer Guarantees prohibits this practice and although Manufacturers are aware of this they still mislead consumers by verbally conveying this message to customers during the purchase process, causing confusion and often causing consumers to misconceive their rights under the ACL. Confirmation of these facts was given in the ACCC New Car Retailing Industry Market Study 2017, highlighting the fact that consumers are not provided adequate explanation of their rights of choice at the point of sale in relation to service and maintenance.

The ‘right to repair’ campaign and advice from independent service providers often clears up this misconception to the consumer, however if allowed to proceed with this proposal Mitsubishi and other manufacturers who follow suit will be able to ‘legally’ inform customers that their additional 5 year warranty will be voided if services outside of the dealership network are carried out. With this in my mind, it will undo all of the hard work the we have put into informing consumers that they ‘do’ have a choice and will officially approve a deal which removes consumer choice.

2. Given the competitive nature of the new car sales market, if Mitsubishi is given the approval with this proposal it is inevitable that all other vehicle manufacturers will follow suit and introduce similar arrangements. This will clearly see a reduction of competition in the market because the independent repair sector will be specifically excluded as a result.

3. Mitsubishi claim to provide a cost saving for consumers if allowed to proceed with this proposal. The consumer already has the right to purchase a new vehicle free from defects as protected by the ACL so they should not have to surrender their freedom of choice to maintain that right. Given on average the labour rate of an independent repairer is approximately 30% less than a Dealership hourly rate and part costs vary from 10% - 50% less when using aftermarket components the savings to the consumer are clearly in favour of non-dealership based servicing, therefore the argument of cost saving in preference to the consumer does not compute.
4. Mitsubishi states in their proposal *that there is a public benefit because under the Notified Warranty, cars are serviced with a "high degree of care and skill" beyond the high degree of care and skill ordinarily provided by independent service providers.* I find this statement totally misleading and untrue; history shows that Independent Repairers are able to service and maintain vehicles to the same level if not higher than a Manufacturer dealership whilst providing customers with protection under consumer guarantees and warranty on parts and labour. In fact as evidenced again in the ACCC New Car Retailing Industry Market Study 2017, the only difficulty Independent Repairers have experienced in relation to providing a high level of service is when Manufacturers restrict access to essential parts and service information as a means of obtaining an unfair advantage. Without any quantitative evidence of any lack of "care or skill" this statement should not be considered when justifying Mitsubishi's claim.
5. If Mitsubishi is successful with their application, as a flow on effect the expansive supply chain of local aftermarket part manufacturers and suppliers will be negatively affected due to the fact that Manufacturer supplied components sourced from overseas suppliers will solely be used in the service of vehicles.
6. As the Australian Motor Vehicle Production Industry is essentially no longer active, a decision made allowing this notification to proceed would purely only benefit overseas based multinational vehicle manufacturers such as Mitsubishi. This could be seen as diverting economic activity out of Australia.

In summary we believe that in its current state the automotive industry in Australia provides motorists with a large amount of options in relation to servicing and repairing their vehicles, thus keeping the market price competitive and convenient for consumers. If this exclusive dealing notification is allowed to proceed it is highly likely that most other manufacturers will follow suit preventing Independent Repairers from competing on an even playing field, subsequently threatening the future for Independent Repairers as an industry.

We request that the ACCC carefully consider consumer rights and choice for motorists as well as the significant impacts this decision will have on the future of the Australian automotive aftermarket repair industry that has served motorists well for many years.

Yours Faithfully



Steven Grocl

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